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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,793	09/29/2003	Yukiko Tani	Q77533	9907
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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
			EXAMINER ZEWDU, MELESS NMN	
			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/671,793	TANI, YUKIKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Meless N. Zewdu	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/29/03, 4/5/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. This action is the first on the merit of the instant application.
2. Claims 1-61 are pending in this action.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/671,793, filed on 9/29/03.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 58-61 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In this case the recited feature, " a program" is non-statutory subject matter since it is not provided in a compute readable medium.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-61 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. (09/984,602) or US-PGPUB. (2002/0077079 A1), issued to Ishihara, in view of Decotignie (US 6,836,654 B2).

The difference, particularly between claims 1, 5, 9, 18, 28, 29, 36, 42, 50, 53, 58-61 of the instant application and the copending application (US 09/984,602) is – the preset time that has since the detection of a mobile telephone being in a closed state. But, this feature is taught by Decotignie's anti-theft protection for a radiotelephone device, where, it is asserted that after a period of inactivity, the radiotelephone is prevented from normal operation (see col. 1, lines 44-59). This teaching would enable one of ordinary

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skill in the art to modify the claims of the copending application to include a period of an inactivity time after which to lock the radiotelephone so as to prevent others to use it if it is stolen or lost (see col. 1, lines 15-18).

This is a provisional obviousness-type double patenting rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-6, 9-11, 13-15, 18-20, 23, 25, 28-30, 32, 35-37, 40, 42-44, 47, 50-51, 53-54 and 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umetsu (JP 2001320474 A) in view of Kenagy et al. (Kenagy) (US 6,449,492 B1).

**As per claim 1:** a portable telephone having a first case including a key operation unit, and a second case connected to said first case (see drawing 5), wherein

key entries except at least an entry of personal identification codes for unlocking are invalidated in said key operation unit (see abstract). But, Umetsu does not explicitly teach about a technique, when a preset setting time has elapsed since a detection of a state that said first and second cases overlap each other while a terminal of the portable telephone is in a wait state for incoming and outgoing calls, as claimed by applicant. However, in a related field of endeavor, Kenagy teaches about a mobile device with

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features that include a user programmable key lock activating/deactivating function (see col. 3, line 64-col. 4, line 13) based on time (see col. 3, lines 45-50; col. 4, lines 46-63).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Umetsu with that of Kenagy for the advantage of providing users with user programmable key lock activation and deactivation (see col. 4, lines 46-49).

**As per claim 2:** Umetsu teaches a portable telephone, wherein said second case is a foldable type terminal connected to said first case via a joining part in a freely openable and closable manner (see abstract).

**As per claim 5:** most of the features of claim 5 are similar to the features of claim 1, except determination means for determining whether a terminal of the portable telephone is in a wait state for incoming and outgoing calls, which is taught by Kenagy (see col. 4, lines 46-63). Therefore, claim 5 is rejected on the same ground and motivation as claim 1.

**As per claim 6:** the feature of claim 6 is similar to the feature of claim 1. Hence, claim 6 is rejected on the same ground and motivation as claim 1.

**As per claim 9:** the feature of claim 9 is similar to the feature of claim 1. Hence, claim 9 is rejected on the same ground and motivation as claim 1.

**As per claim 10:** the features of claim 10 are similar to the features of claim 5. Hence, claim 10 is rejected on the same ground and motivation as claim 5.

**As per claim 11:** Umetsu teaches a foldable type portable telephone, wherein said means for invalidating key entries invalidates the key entries when setting information is preset to automatically inhibit the key entries in said key operation unit (see abstract).

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**As per claim 13:** Kenagy teaches a foldable type portable telephone, further comprising:

means for setting the setting time instruction information from outside (see col. 4, lines 46-63).

**As per claim 14:** the features of claim 14 are similar to the features of claim 1. Hence, claim 14 is rejected on the same ground and motivation as claim 1.

**As per claim 15:** the feature of claim 15 is similar to the feature of claim 1. Hence, claim 15 is rejected on the same ground and motivation as claim 1.

**As per claim 18:** the feature of claim 18 is similar to the feature of claim 5. Hence, claim 18 is rejected on the same ground and motivation as claim 5.

**As per claim 19:** Umetsu teaches a portable telephone, wherein said detection means detects either one of a state that said first and second cases overlap each other and a release of the state that said first and second cases overlap each other, as the specified state (see abstract).

**As per claim 20:** the feature of claim 20 is similar to the feature of claim 1. Hence, claim 20 is rejected on the same ground and motivation as claim 1.

**As per claim 23:** the feature of claim 23 is similar to the feature of claim 1. Hence, claim 23 is rejected on the same ground and motivation as claim 1.

**As per claim 25:** the feature of claim 25 is similar to the feature of claim 13. hence, claim 25 is rejected on the same ground and motivation as claim 13.

**As per claim 28:** the features of claim 28 are similar to the features of claim 1. Hence, claim 28 is rejected on the same ground and motivation as claim 1.

**As per claim 29:** the features of claim 29 are similar to the features of claim 5. Hence, claim 29 is rejected on the same ground and motivation as claim 5.

**As per claim 30:** the feature of claim 30 is similar to the feature of claim 11. Hence, claim 30 is rejected on the same ground and motivation as claim 11.

**As per claim 32:** the feature of claim 32 is similar to the feature of claim 13. Hence, claim 32 is rejected on the same ground and motivation as claim 13.

**As per claim 35:** the feature of claim 35 is similar to the feature of claim 1. Hence, claim 35 is rejected on the same ground and motivation as claim 1.

**As per claim 36:** the feature of claim 36 is similar to the feature of claim 5. Hence, claim 36 is rejected on the same ground and motivation as claim 5.

**As per claim 37:** Umetsu teaches an auto dial lock method, wherein, in a foldable type terminal in which said second case is connected said first case via a joining part in a freely open-able and closable manner, said second step includes detecting an opened state of said first and second cases, as the release of the state that said first and second cases overlap each other (see abstract).

**As per claim 40:** Kenagy teaches an auto dial lock method, wherein said fourth step includes invalidating the key entries when setting information (time) is preset to automatically inhibit the key entries in said key operation unit (see col. 4, lines 46-63).

**As per claim 42:** the features of claim 42 are similar to the features of claim 5. Hence, claim 42 is rejected on the same ground and motivation as claim 5. 41.

**As per claim 43:** the feature of claim 43 is similar to the features of claim 1. Hence, claim 43 is rejected on the same ground and motivation as claim 43.



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**As per claim 44:** the features of claim 44 are similar to the features of claim 1. Hence, claim 44 is rejected on the same ground and motivation as claim 1.

**As per claim 47:** the feature of claim 47 is similar to the features of claim 5. When the references are combined as discussed therein, the key entries would be invalidated based on a preset setting information. Hence, claim 47 is rejected on the same ground and motivation as claim 5.

**As per claim 50:** the features of claim 50 are similar to the features of claim 5. Hence, claim 50 is rejected on the same ground and motivation as claim 5.

**As per claim 51:** the feature of claim 51 is similar to the features of claim 5. When the references are combined as discussed therein, the key entries would be invalidated based on a preset setting information. Hence, claim 51 is rejected on the same ground and motivation as claim 5.

**As per claim 53:** the features of claim 53 are similar to the features of claim 5. Hence, claim 53 is rejected on the same ground and motivation as claim 5.

**As per claim 54:** the feature of claim 54 is similar to the features of claim 5. When the references are combined as discussed therein, key entries would be prohibited based on a preset setting information. Hence, claim 54 is rejected on the same ground and motivation as claim 5.

**As per claim 57:** the feature of claim 57 is similar to the feature of claim 1. Hence, claim 57 is rejected on the same ground and motivation as claim 1.

**As per claim 58:** the features of claim 58 are similar to the features of claim 5, except claim 58 is directed to a computer program to enable the apparatus of claim 5 perform

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the method steps of claim 58. Since, the apparatus of claim 5 is shown to have performed the steps of claim 58, a computer program should be an obvious feature to the prior art combination discussed in the rejection of claim 5. Hence, claim 58 is rejected on the same ground and motivation as claim 5.

**As per claim 59:** the features of claim 59 are similar to the features of claims 5 and 58. Hence, claim 59 is rejected on the same ground and motivation as provided in the rejection of claim 5, including the based on the analysis provided in the rejection of claim 58.

**As per claim 60:** the features of claim 60 are similar to the features of claims 5 and 58. Hence, claim 60 is rejected on the same ground and motivation as provided in the rejection of claim 5, including the based on the analysis provided in the rejection of claim 58.

**As per claim 61:** the features of claim 61 are similar to the features of claims 5 and 58. Hence, claim 61 is rejected on the same ground and motivation as provided in the rejection of claim 5, including the based on the analysis provided in the rejection of claim 58.

Claims 3, 7, 16, 21, 38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references above, and further in view of Kfoury (US 6,549,789 B1).

**As per claim 3:** but, the references applied above, do not explicitly tech about a portable telephone, wherein the second case (housing) is a rotary type terminal connected to said first case (housing) via a joining part so as to be rotated along a key

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operation face of said key operation unit, as claimed by applicant. However, in a related field of endeavor, Kfoury teaches about a portable electronic device with an adaptable user interface, wherein the a first and second housing portions of the device rotate at different axes relative to each other (see abstract; fig. 8; fig. 14; col. 8, lines 48-67).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Kfoury for the advantage of providing users selectable user interface (see col. 1, lines 6-10).

**As per claim 7:** the feature of claim 7 is similar to the feature of claim 3. The relative rotation and position of the two housing portions (in Kfoury's reference) is detectable by a position detector (see fig. 1, elements 133 and 135). When the references are combined as discussed above, the various detected positions will be detected as a release of the state that the first and second cases overlap each other. Hence, claim 7 is rejected on the same ground and motivation as claim 3.

**As per claim 16:** the feature of claim 16 is similar to the feature of claim 3. Hence, claim 16 is rejected on the same ground and motivation as claim 3.

**As per claim 21:** the feature of claim 21 is similar to the feature of claim 7. Hence, claim 21 is rejected on the same ground and motivation as claim 7.

**As per claim 38:** the feature of claim 38 is similar to the feature of claim 7. Hence, claim 38 is rejected on the same ground and motivation as claim 7.

**As per claim 45:** the feature of claim 45 is similar to the feature of claim 7. Hence, claim 45 is rejected on the same ground and motivation as claim 7.

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Claims 4, 8, 17, 22, 39 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references, and further in view of Meada (US 5,450,619).

**As per claim 4:** the above reference do not explicitly teach about a portable telephone, wherein a second case is a slide storage type terminal that freely receives a first case by sliding the first case in a longitudinal direction, as claimed by applicant. However, in a related field of endeavor, Meada teaches about a slidably retractable portable telephone apparatus wherein the length of the apparatus changes between an operation and storage states (see abstract; col. 1, lines 49-67). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Meada for the advantage of reducing the length of the telephone a telephone apparatus (see col. 1, lines 25-46).

**As per claim 8:** the feature of claim 8 similar to the length of claim 4, with the Meada reference teaching the difference feature, "said second case is slid by a predetermined amount relative to the first case." When the references are combine as shown, the position of slide would be detected by the detection means provided by the above references, and consequently will be recognized as a release of the state that the first and second cases overlap, subsequent to the combination of the references.

**As per claim 17:** the feature of claim 17 is similar to the feature of claim 4. Hence, claim 17 is rejected on the same ground and motivation as claim 4.

**.As per claim 22:** the feature of claim 22 is similar to the feature of claim 8. Hence, claim 22 is rejected on the same ground and motivation as claim 8.

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**As per claim 39:** the feature of claim 39 is similar to the feature of claim 8. Hence, claim 39 is rejected on the same ground and motivation as claim 8.

**As per claim 46:** the feature of claim 46 is similar to the feature of claim 8. Hence, claim 46 is rejected on the same ground and motivation as claim 8.

Claims 12, 24, 26-27, 31, 33-34, 41, 48-49, 52 and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references, and further in view of Obuchi et al. (Obuchi) (US 5,937,005).

**As per claim 12:** the above references do not explicitly teach about a technique, wherein, when a previously set predetermined operation is performed before the setting time elapses, said time counting means once clears the count of time and then restarts counting the setting time, as claimed by applicant. However, in a related field of endeavor, Obuchi teaches about error rate measuring apparatus for a mobile communications device, wherein a reset controller sends a reset signal to counters and set their values to zero (clears), each time an error rate is outputted from a divider (see col. 11, line 62-col. 12, line 7). To further discourse the relevance of Obuchi's to the claimed feature, consider the following. In the claimed feature, the time counter is reset when interrupted by some action before reaching the set time. In Obuchi's reference, the a reset controller resets the counters' value to zero when an error is detected or occurred. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with the teaching of Obuchi for the advantage of maintaining a constant error rate level for a mobile radio communications apparatus (see col. 1, lines 8-16).

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**As per claim 24:** the feature of claim 24 is similar to the feature of claim 12. Hence, claim 24 is rejected on the same ground and motivation as claim 12.

**As per claim 26:** the feature of claim 26 is similar to the feature of claim 12. Hence, claim 26 is rejected on the same ground and motivation as claim 12.

**As per claim 27:** the feature of claim 27 is similar to the feature of claim 12, except performing a predetermine operation using a side key, which is, a user performing a push or scroll operation of a side key to interrupt an idle state of a device. The difference between Obuchi's teaching and the claimed feature is that, in the claimed feature, the interrupting action is provided manually (via side key) as oppose to automatically, as provided in the Obuchi's reference. Thus, the difference is a mere manual and an automatic operation, which carries no patentable weight. Therefore, claim 27 is rejected on the same ground and motivation as claim 12.

**As per claim 31:** the feature of claim 31 is similar to the feature of claim 12. Hence, claim 31 is rejected on the same ground and motivation as claim 12.

**As per claim 33:** the feature of claim 33 is similar to the feature of claim 12. Hence, claim 33 is rejected on the same ground and motivation as claim 12.

**As per claim 34:** the feature of claim 34 is similar to the feature of claim 27. Hence, claim 34 is rejected on the same ground and motivation as claim 27.

**As per claim 41:** the feature of claim 41 is similar to the feature of claim 12. Hence, claim 41 is rejected on the same ground and motivation as claim 12.

**As per claim 48:** the feature of claim 48 is similar to the feature of claim 12. Hence, claim 48 is rejected on the same ground and motivation as claim 12.

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**As per claim 49:** the feature of claim 41 is similar to the feature of claim 27. Hence, claim 49 is rejected on the same ground and motivation as claim 27.

**As per claim 52:** the feature of claim 41 is similar to the feature of claim 12. Hence, claim 52 is rejected on the same ground and motivation as claim 12.

**As per claim 55:** the feature of claim 55 is similar to the feature of claim 12. Hence, claim 55 is rejected on the same ground and motivation as claim 12.

**As per claim 56:** the feature of claim 56 is similar to the feature of claim 12. Hence, claim 56 is rejected on the same ground and motivation as claim 12.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks-Harold, Marsha can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2600

Meless Zewdu

Examiner

21 April 2006.

 4-21-06